

revert to heterosexual behavior once they regain access to the opposite sex, while the "true" homosexual prefers his own sex even when the other is freely accessible.

The situation of deprivation does not affect all people equally. Even late nineteenth-century authors realized that some individuals never engage in homosexual activity no matter how long or how intense the deprivation from heterosexual contact they endure. Similarly, many homosexuals fail to take up heterosexual activity even though homosexuality may be so severely repressed as to be practically unavailable. Nevertheless, cross-cultural evidence abundantly documents higher incidences of homosexual activity in situations of heterosexual deprivation, and markedly so for males in their sexual prime.

SIWA OASIS

A town in the Libyan desert of western Egypt, Siwa is the site of an ancient civilization which retained a form of institutionalized homosexuality into the modern era. The oasis was the location of an oracle consulted by **Alexander the Great** and modern observers have stressed how the Berber population conserved its own language, religious rites, and sexual customs despite the later overlay of Islam and Egyptian administration.

Sexual relations among men fell into the ancient pattern of pairing between usually married adult men and adolescent bachelors. In the nineteenth century, families lived within the walls of a town constructed rather like a single large adobe "beehive" while all unmarried men lived together on the edges of town where they made up a warrior class (*zaggalah*) protecting the oasis from desert marauders. In the twentieth century, as the military function declined and the townspeople have moved out of the walled center, the *zaggalah* have become agricultural laborers retaining their customs and clubhouses. The anthropologist Walter Cline, writing in 1936, found "All normal Siwan men and

boys practice sodomy. . . . Among themselves the natives are not ashamed of this; they talk about it as openly as they talk about love of women, and many if not most of their fights arise from homosexual competition."

Among the *zaggalah*, man-boy relationships were formally recognized when the man offered the boy's father a gift (or brideprice) as in heterosexual marriage. Abd Allah notes that "Siwan customs allow a man but one boy [vs. four wives] to whom he is bound by a stringent code of obligations." In the *zaggalah* clubhouse "laborers come together on any occasion for communal rejoicing and assemble on moonlight nights for drinking, singing, and dancing to the merry rhythm of flute and drum" (Cline). This festive and erotic tradition culminates in a three-day bacchanal dedicated to the medieval sheik, Sidi Soliman, following the Islamic fast of Ramadan. The various accounts of Siwa agree on the openness and fluidity of sexuality, in that divorce is casual and serial polygamy common, men having as many as a dozen wives over time. Male and female prostitution was noted and Cline remarked that the role in homosexual relations was variable and voluntary.

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SIXTEENTH-CENTURY LEGISLATION

This era brought to completion the trend toward criminalization of homosexuality throughout Christendom. The Jewish and Christian antihomosexual tradition that goes back to the fifth century

b.c. had crystalized in the **canon law** of the Christian church, whence it passed—from the end of the thirteenth century onward—into the criminal codes of the various European jurisdictions. The imposition of a Christian sexual morality that saw in homosexual acts a violation of the order of nature went hand in hand with the church's expansion of its organizational and spiritual control over a recalcitrant or even heretical population. The only conflict with the secular power was over the jurisdiction of its courts as opposed to the ecclesiastical ones.

The Reformation did not break with this trend or reverse it. By the close of the sixteenth century the whole of Christian Europe—Protestant, Catholic, and Orthodox—held sodomy a capital offense. The English statute of 25 Henry VIII c. 6 (1533) imposing the penalty of death by hanging for "the detestable and abominable Vice of Buggery committed with mankind or beast" is but a single example of the laws enacted by the Christian states and principalities in that era.

Central Europe. A condemnation of sodomy committed by "*eyn mensch mit eynem vihe, mann mit mann, weib mit weib*" (a human being with a beast, man with man, woman with woman) appears in Article 141 of the *Constitutio criminalis Bambergensis* (criminal code for the German city of Bamberg) of 1507, in the same article of the *Constitutio criminalis Brandenburgensis* (criminal code of Brandenburg) of 1516, in Article 122 of two drafts of a penal code for the Holy Roman Empire dating from 1521 and 1529, and finally in Article 116 of the *Constitutio Criminalis Carolina* that was formally adopted at the session of the Diet (Reichstag) in Regensburg on July 27, 1532. This was the end result of the work of codification that had been begun at the Diet in Freiburg in 1498 and was completed only in the reign of the Catholic emperor Charles V, who was one of the bitterest opponents of the Reformation. The time span involved—starting 19 years before the

division of the Western church and ending 15 years after it—proves beyond a doubt that the rise of Protestantism had nothing to do with the enactments in question. The Carolina had an enormous impact on European criminal law, both substantive and procedural, in countries as far apart as France and Russia, from the time of its enactment to the end of the Ancien Regime; even the *widernatürliche Unzucht* (unnatural lewdness) of the notorious **Paragraph 175** of the Penal Code of the German Empire (1871) merely rephrases the *unkeusch, so wider die natur beschicht* (unchastity contrary to nature) of the German codes of the early sixteenth century. The earlier German code had no force or influence, however, in England, which had already gone far down the path of developing its own distinctive legal tradition—the so-called **common law**.

The origin of all these statutes is probably to be sought in the writings of the Italian jurists of the fifteenth century who are cited as sources of the imperial law which displaced the local codes of the individual German cities. What happened was simply that offenses which had been crimes in canon law were now made criminal in the secular courts as well. In this whole process of criminalization of sodomy the teaching of the Christian church is primary; the legal enactments and social attitudes are secondary and tertiary developments, so that the English statute of 1533 independently parallels the Continental enactments.

England. Monks—against whom accusations of sodomy had been voiced since the ninth century—were of course targets of the Reformers. Henry VIII's letter of April 4, 1543 to his agent in Scotland, Ralph Sadler, envisages what one would nowadays call a "covert action" in that country that would dispossess the monasteries of their holdings in a more effective manner than a publicly decreed statute might have allowed. With respect to his own realm there is no evidence that the statute of 1533 (included as it was in a

group of miscellaneous statutes having nothing remotely to do with this subject) was motivated by the Reformers' intent to prosecute the monks for "crimes against nature" and then to dissolve the monasteries and confiscate their property. Dissolution of monasteries and enactments against sodomy were two different issues.

The unique features of the English tradition in this sphere are first, the use of the term **buggery** as the legal designation for the crime, though in ordinary speech in England the word was long considered obscene and offensive; and second, the frequent commutation of the penalty of death by hanging (not burning at the stake, as some wrongly assume) to exposure in the pillory, which was described by contemporary observers as worse than death because of the ferocity with which mobs, and particularly women eager to punish enemies of their sex, pelted the defenseless sodomites with missiles and filth of every kind. It is uncertain just how and when this penalty began, but there is evidence that the pillory was used to punish sexual immorality well before the reign of Henry VIII, possibly even as early as the time of Richard II (late fourteenth century). The standard histories of English law begin in medias res by relating the abuses to which the pillory led in the mid-eighteenth century and then its abolition for all offenses except perjury in 1816. In Great Britain it was finally abandoned in 1837, and the United States Congress followed suit in 1839.

The sixteenth-century sodomy statutes remained on the books until the thinkers of the **Enlightenment**, beginning with Cesare **Beccaria** in 1764, denounced the death penalty as a relic of medieval superstition and intolerance.

The number of persons executed for "buggery," "crime against nature," and the like in jurisdictions subject to the British crown was probably no more than three a year for the whole period from 1561 to 1861, when the death penalty was abolished in favor of life imprisonment. Thus

the scores of victims of the law cannot be compared with the hundreds and thousands who were executed or simply killed just for holding "heretical" beliefs during the Reformation conflict in the sixteenth century. In fact, the really significant feature of the English legal development is its lateness in both directions: the criminalization of sodomy only in 1533, the abolition of the death penalty only in 1861, and the retention of the offense in the criminal codes of the English-speaking world long after the influence of the Enlightenment and of classical liberalism had reshaped almost every other area of the law. But few as the executions may have been, they left an enduring stamp on public opinion. And the United States Supreme Court's fateful decision in *Bowers v. Hardwick* (1986) denying the right of privacy to consensual adult homosexual behavior keeps alive the legal tradition that stems from the law of 1533, reinforced by the unrelenting hostility of religious conservatives and fundamentalists.

See also Canon Law; Law, Feudal and Royal; Law, Municipal.

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SLANG TERMS FOR HOMOSEXUALS IN ENGLISH

The several national varieties of English offer hundreds of slang terms for homosexuals, a few of them traceable to the seventeenth century, but most dating from the nineteenth and twentieth centuries. Some may be heard wherever English is spoken (e.g., **gay**, **queer**); many more are limited in their area of use ("jasper," "poofter," "moffie"). Nearly all these terms were devised by heterosexuals and so tend to express in their meaning or derivation the hostility, the contempt, the hatred, and the fear that straight people have felt toward gay sex and those who practice it.

The corpus of slang also reflects long-standing and still prevalent misunderstandings of homosexuality. Recent